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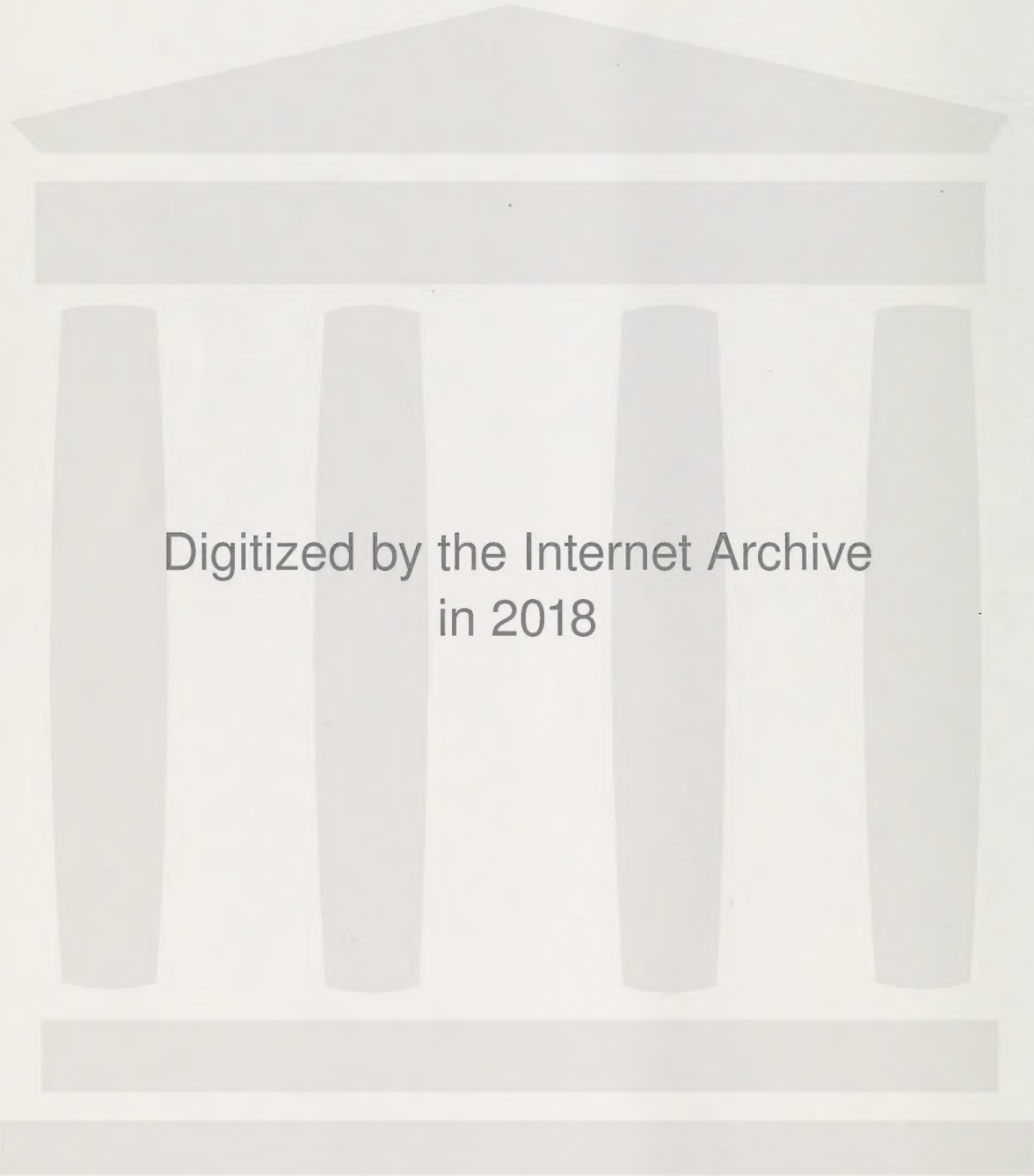
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APPENDIX I

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Anneke Jans Bogardus

AND HER ✓

New Amsterdam Estate

Appendix I

Past and Present

BEING A LEGAL SUMMARY
CONTINUED

T. B. Wikoff

COMPILED FROM
LATER REPORTS OF RECENT INVESTI-
GATIONS IN THE EAST

INDIANAPOLIS, INDIANA

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Supplement to your order of October, 30th, (30th) 1924.

Supplement to your order of October, 30th, (30th) 1924.

FOREWORD TO APPENDIX I

The matter set forth in this appendix was not conceived in the brain of the compiler, but are transcriptions of records and manuscripts as found, and they are reprinted, or reproduced, for the sole purpose of giving the present and future day descendants both sides of this much mooted and controversial proposition, the original manuscripts of the investigators being in the possession of the compiler.

CHAPTER I

ANNEKE JANS BOGARDUS AND HER NEW AMSTERDAM
ESTATE, PAST AND PRESENT
BEING A CONTINUATION OF THE LEGAL SUMMARY

Governor Fletcher was the father of the Trinity Church Corporation, and in his zeal for their material welfare, he made to them grants of land that extended beyond his own term in office, and thus he infringed upon the perquisites and prerogatives of his successor, consequently the following Act was passed.

“An Act For The Vacating, Breaking And Annuling Several Extravagant Grants Of Land

Made By Colonel Fletcher The Late Governor Of
This Province Under His Majesty.”

Passed May, 12th, 1699.

Signed By The Governor, May, 16th.
1699.

Whereas their Excellencies the Lords Justices
Of England, have by their instructions unto his
Excellency the Governor, bearing date of the four-
teenth day of November, 1698, directed his said
Excellency to use all legal means for the breaking
of extravagant grants of land in this province
* * * and whereas there is another extravagant
grant of the King's Farm, in manner aforesaid,
being a lease or demise of the said farm unto the
Church-wardens and Vestrymen of Trinity Church
for seven years, from the date thereof, being the
19th of August, 1697. Registered in the Secre-
tary's office, to have and to hold the said farm and
appurtenances unto the said Church-wardens and
Vestrymen of Trinity Church, their successors and
assigns, for the term of seven years, from the date
aforesaid, until the said term of years be fully
ended, under the yearly reserved rent of sixty
bushels of wheat.

And whereas it does appear unto his said Ex-
cellency and Council, that all and every of the
above recited several and respective grants and
demises of land and premises, to all and every the
person and persons aforesaid, their respective
heirs, successors and assigns, are in fact and deed
absolutely extravagant grants issued by the said
Colonel Fletcher, late Governor of this province

under His Majesty, contrary to and against the trust reposed in him by his said Majesty, and are extravagant grants according to the true intent and meaning and construction of their Excellencies, the Lords Justices of England said instructions, and as such ought to be broke, vacated and annulled, and made of none effect forever.

Be it therefore enacted by his Excellency the Governor and Council convened in General Assembly, and it is hereby enacted by authority of the same. That all and every of the several and respective extravagant grants of land and premises, granted, demised and sealed in manner aforesaid, and heretofore recited and mentioned, within all and every of their several respective bounds and limits aforementioned, and expressed, are hereby broke, vacated and forever annulled and of none effect * * * and shall forever hereafter cease, determine and become null and void and of none effect, to all intents, purposes and constructions whatsoever, as if no such grants, demises and registers of the same in the Secretary's office had ever been done * * * and be it further enacted by the authority aforesaid, that all and every of the grants and demises for the several and respective tracts of land, swamps, farms and gardens as aforesaid, which are registered in the Secretary's office, shall upon the publication hereof, be obliterated, razed, defaced, and the memory and record of all and every of the aforesaid grants shall be reduced into oblivion and forgetfulness, as if no such grants had ever been made or reg-

istered in the said office, anything to the contrary hereof in any wise notwithstanding. And to the intent that it may not be in the power of any of His Majesty's Governors or Commanders in Chief, for the time being hereafter, to make for the future any such extravagant grants of land as aforesaid, be it further enacted by the authority aforesaid, that it shall not be in the power of any of His Majesty's Governors or Commanders in Chief, which shall be hereafter Governors or Commanders in Chief of this province under His Majesty, His heirs or successors, to grant or demise for any longer than for his term in the Government any of the lands hereafter mentioned, that is to say, Nutten Island, The King's Farm, The King's Garden, The Swamp and Fresh Water, as they are now limited and bounded, being the denizen of His Majesty's Fort at New York, and for the benefit and accommodation of His Majesty's Governors and Commanders in Chief for the time being, and if any such grants and demises for the future shall be made longer than for the time aforementioned, then all and every of such grants shall IPSO FACTO become null and void, and of no use to all intents and purposes whatsoever any law, custom or usage to the contrary hereof in any ways notwithstanding, saving to the City of New York, the right they have to the fresh water, and lands to low water mark behind the King's Garden.

(Transcribed from Laws of the Colony of New York, Vol. I and pages 412 to 417).

Lord Bellamont succeeded Colonel Fletcher as

Governor, and it was at the inception of the administration of Governor Bellamont that the above quoted Act was passed, and which divested the Trinity Church Corporation of the use of all Crown lands.

Lord Cornbury, a cousin to Queene Anne, succeeded Lord Bellamont as Governor, and Governor Cornbury proved to be as zealous for the material welfare of the Trinity Church Corporation, as was his predecessor Colonel Fletcher, and Governor Cornbury early in 1702, leased the Crown lands to the Church in accordance with the Act of May 12th, 1699, and after which, or on November 27th, 1702, he attempted to repeal the Act of May 12th, 1699, (before quoted) and this last mentioned Act stood in effect until June 26th, 1708, when it was repealed by Queen Anne in Council, and she at the same time confirmed the restraining Act of May 12th, 1699, limiting the length of time of all future leases of the Crown lands to the term in office of the Colonial Governors.

After the repealing Act of Lord Cornbury of November 27th, 1702, and by virtue of the lease to them of the Crown lands earlier in 1702, the Church sub-leased the lands to George Ryerse in 1704.

The attempted repealing Act of Lord Cornbury is as follows in part.

“An Act For The Repealing Of Several Acts Of Assembly And Declaring Other Ordinances Published As Acts Of Assembly To Be Void.”

Passed Nov. 27th, 1702.

For as much as several Acts and Laws have lately been passed in this Colony, with plausible and colorable titles and pretences, some of them incongruous, and unjust in themselves, others to obtain private and sinister ends, under the cloak of public good * * * be it therefore enacted by his Excellency the Governor, AND BY AND WITH THE ADVICE AND CONSENT OF HER MAJESTY'S COUNCIL AND ASSEMBLY, AND BY THE AUTHORITY OF THE SAME, that one act of General Assembly * * * also one other Act, entitled an Act For Vacating, Breaking and Annulling Several Extravagant Grants Made By Colonel Fletcher, Late Governor Of This Province Under His Majesty, and all and every the branches and clauses and articles, in all and any of them contained, shall from and after the publication hereof, be abrogated, repealed, annulled, and from thenceforth be utterly void and of none effect.

And be it further declared and enacted by the authority aforesaid, that all and every pretended act or acts of General Assembly * * * law or laws of this Colony, since the first day of August, in the year of our Lord, one thousand seven hundred and one, are, and hereby are declared and enacted to be wholly frustrate, null and void, to all intents, constructions and purposes whatsoever, any law, statute or custom to the contrary hereof in any wise notwithstanding.

(Transcribed in part from Laws of the Colony of New York, Vol. I pages 523 to 525).

Lord Cornbury having enacted the aforequoted legislation, subject however, it will be noted, to the approval and consent of Her Majesty's Council and Assembly, he felt free evidently, to sanction the lease in perpetuity of 1705, and known to history as the Queen Anne grant of that year. This lease was formulated and promulgated, in the face of the former lease from Cornbury of 1702, which was still in effect in 1705, and also done in the face of the sub-lease from the Church to George Ryerse in 1704, and which was also in effect in 1705.

In the trial of *Bogardus, versus Trinity Church Corporation*, as set forth in Sandford's New York Chancery Reports, book 4 and case 633, the Chancellor held that the Acts of the Colonial Legislature were valid until disapproved or annulled by the Sovereign power, and therefore the annulling act of Lord Cornbury of November 27th, 1702, which set aside the restraining Act of May 12th, 1699, was in force in 1705, consequently, Governor Cornbury had the authority in 1705, to grant a lease in perpetuity, namely, the Queen Anne grant; however, this lease in perpetuity, and the Act of November 27th, 1702, stood only until June 26th, 1708, when it was revoked by Queen Anne in Council on that date.

Governor Lord Lovelace succeeded Governor Cornbury. Governor Lovelace was commissioned May 22nd, 1708, and he died in office June 20th, 1709. He refused to grant a renewal of the Cornbury lease to the Church of 1702, and in accordance with instructions to him from Queen Anne,

dated July 20th, 1708, and which instructions are in part as follows:

Additional Instructions For Lord Lovelace, Our Right Trusty And Well Beloved, John Lord Lovelace, Baron Of Hurley, Our Captain General And Governor In Chief Of Our Province Of New York, And The Territories Depending Thereon In America.

Given at our Court at Windsor, the twentieth day of July, 1708, in the seventh year of our reign. (New York Entries G 298).

Anne R.

Whereas we have thought fit by our order in Council of the 26th of June, 1708, to repeal an act passed at New York, the 27th of November, 1702, entitled, An Act For Repealing Several Acts Of Assembly And Declaring Other Ordinances Published As Acts Of Assembly To Be Void, and whereas by the said order we have likewise thought fit to confirm and approve an Act passed at New York, the 12th of May, 1699, entitled an Act For Vacating, Breaking And Annulling Several Extravagant Grants Of Land Made By Colonel Benjamin Fletcher, Late Governor Of This Province Under His Majesty, by the confirmation of which Act, several large tracts of land (as by the said Act will more fully appear) are resumed to us, and are in our disposal to re-grant, as we shall see occasion. Our will and pleasure therefore is, that you may re-grant to the late patentees of such resumed grants, a suitable number of acres, not exceeding two thousand to any one person, and that

in such grants, AS WELL AS IN ALL FUTURE GRANTS, there be a RESERVATION TO US, OUR HEIRS AND SUCCESSORS, of a yearly quit rent of two shillings and six pence for every hundred acres, with a covenant to plant, settle and effectually cultivate at least three acres of land for every fifty acres, within three years after the same shall be so granted, upon forfeiture of every such grant.

(Transcribed in part from New York Colonial Manuscripts, London Documents XVII as recorded in Colonial History of New York, Vol. 5 and page 54).

From the above quoted instructions it can be readily seen that through the annulling of the Cornbury Act of November 27th, 1702, and the confirmation of the restraining Act of May 12th, 1699, all leases for the future on the Crown lands were limited to the time in office of the Colonial Governors, consequently, the reputed Queen Anne grant of 1705, being a lease in perpetuity or forever, was, upon the face of it, null and void, after the Act of the Queen in Council, of June 26th, 1708.

Governor Robert Hunter succeeded Governor Lord Lovelace in office, after the death of the latter, and the Trinity Church Corporation having failed in obtaining a renewal of their Cornbury lease of 1702, from Governor Lovelace, they petitioned Governor Hunter for a renewal of the lease, and he granted it in accordance with the restraining Act of May 12th, 1699, that had recent-

ly been confirmed by the Queen, and also granted the lease in accordance with instructions from Queen Anne to him dated on December 27th, 1709, and which instructions read in part as follows.

“* * * You are also to take care that no private Act be passed in which there is not a SAVING OF THE RIGHTS TO US, OUR HEIRS AND SUCCESSORS, all bodies politic or CORPORATE, and of all other persons, except such as are mentioned in the said Act.” (New York entries H-7).

(Transcribed in part from instructions dated Dec. 27th, 1709. London Documents XVII, as recorded in Colonial History of New York, Vol. 5 page 126 and paragraph 17—Paragraph 18 provides that ALL acts be first submitted to the Queen for approval before becoming effective).

In further proof that Governor Hunter leased the Crown lands to the Trinity Church Corporation in accordance with the confirmed restraining Act of May 12th, 1699, we find that the friends of Governor Hunter, in their circular letter No. 1714, to the Bishop of London, acknowledges him as having let the farm to the Church during his term in office only, and according to laws and instructions to that effect.

Their letter reads in part as follows.

“* * * that we have here a thriving church of the established worship, that the same church enjoys a charter with ample privileges, and that our minister is made happy in his function by a large

stipend here, and the enjoyment of a certain farm, called the Queen's Farm, which His Excellence Brigadier Hunter, has consented the Church shall possess, DURING HIS STAY IN THIS GOVERNMENT, out of which Mr. Vesey, (the Rector) is allowed 26 pounds per annum, which in all with perquisites, is computed at 300 pounds per annum."

(Transcribed in part from Documentary-History, State of New York, Vol. 3 and page 265).

If entry to the Anneke Jans Bogardus lands was made in 1705, under the heralded Queen Anne grant of that year, and a colorable chain of title was obtained thereby, one is led to wonder why Rector Vesey wrote as he did on December 2nd, 1709, or four years after the claimed grant, and one year after the revocation act of the Queen in June, 1708, to his friend Colonel Riggs, and which letter reads in part as follows:

New York, Dec. 2nd, 1709.

My Dear Friend Colonel Riggs:

I humbly entreat you to remember me in England, and vouchsafe me your favor in these particulars, as,

1st—To put the Bishop of London in mind to adjust the affair of the farm, by the Queen's letter, or otherwise, before the new Governor leaves England, that IT may be no cause of dispute between him and us after his arrival.

2nd—That the farm, though now of small rent, 30 pounds per annum, will in a few years be much more considerable, and that it deserves the utmost

efforts to secure it to the Church, which may easily be effected at present, but hereafter, NOT.

(Transcribed in part from New York Colonial Manuscripts, London Documents XX, as recorded in New York Colonial History, Vol. 5 and page 466).

Quit rent book D, Comptroller's Office, bears an entry that on September 20th, 1786, the rent on the farm for 11 years, preceding the 25th of December of that year, was PAID TO THE STATE, and also the sum of two pounds and two shillings, was paid as commutation, and the discharge of said rent, and pursuant to the Act of Legislature, of April 1st, 1786.

Thus we see that the Trinity Church Corporation were permissive tenants, and paying rent as such, as late after their reputed grant of 1705, as September 20th, 1786, and in this connection, we find that according to 12 Gill, N. Y. Reports, page 173, that "a payment of rent is conclusive evidence that the occupation of the party paying, was permissive and not adverse, and the mere holding over after the expiration of the lease, does not change the character of the possession," (see 102 U. S. page 651) also, "to stop the running of the statute of limitations, it is not necessary that the owner be in continuous possession" (see Meighan versus Rohe, 166 Fisher, N. Y. Reports, Appellate Division, page 175).

Moreover, by paying rents to the Crown and the State, the Trinity Church Corporation was tenant of the Crown and the State, and this disqualifies a

claim of possession under the reputed grant of 1705, and in this connection, the Court has held that, "there never can be a constructive possession, and hence the rule is that there is no actual possession, and the law will presume the possession to be in him who has a right. The lessors therefore, in order to avail themselves of a constructive possession, must first show that the legal title was vested in them" (see 3 Johnson's N. Y. Chancery Reports, page 388).

It has been shown that the claim to entry in 1705, through the reputed Queen Anne grant of that year, is false and unfounded, because the grant of 1705 was, and is non-existent.

It has been historically mentioned that early in 1702, Lord Cornbury leased the "Queen's Farm" to the Trinity Church Corporation, during his term in office, and it is noted that George Ryerse was the sub-lessee in 1704, and also noted, that the recital of the draft of the Queen Anne grant of 1705, states that the grant is for "the 'Queen's Farm' as the same is now in the occupation of, and enjoyed by George Ryerse, of the City of New York, yeoman," thus it can be noted that a new entry of the same premises is attempted in 1705, while the old lease entry of 1702, was still in effect, and without going out of the old, in order to come in adversely on the new, and this is a legal impossibility in substantiation of a claim to adverse possession, so legal authorities contend.

It has also been shown that the Trinity Church Corporation were permissive tenants of the

“Queen’s Farm” under the Colonial Governors after the year 1700, and also shown that Governor Montgomery, in 1730, specifically reserved the “Queen’s Farm,” formerly the “King’s Farm,” and more formerly the “Duke’s Farm” and originally the “Burgomaster’s Bowery” of the Dutch West India Company, as Crown Lands, and by paying rent to the State as late as September 20th, 1786, they were still permissive tenants at that time, consequently, how could a claim to possession, and title, under the reputed Queen Anne grant of 1705, be allowed to prevail by later courts in rendering decisions?

It has been shown that the Trinity Church Corporation were sued in Chancery, for rents due the Crown on the farm, according to the lease reservations, and the Crown having to sue for their own perquisites, would render their title not only disputable, but void, should the suit result in favor of the defendants, consequently, Lord Bolingbroke issued instructions dated April 14th, 1714, in the name of the Queen, to stop the proceedings in Chancery, thus saving the title to the Crown, and these instructions have since been heralded as a confirmation to the Church, of the reputed grant of 1705, but which attempted grant was in reality annulled by the Queen in 1708 as previously shown herein.

It is found that the Colonial Legislature of the State of New York passed an Act on October 23rd, 1779, vesting all property in the State of New York, which before the 9th day of July, 1776,

did vest in, or belong, or was, or were due to the Crown of Great Britain, and this Act declared that ever since the 9th day of July, 1776, and have been, **AND FOREVER HEREAFTER SHALL BE**, vested in the people of this State, and furthermore, it is found that by an Act of Assembly, of November, 1784, a Legislature committee was appointed to report on the title claimed by the Trinity Church Corporation. They reported February 7th, 1785, and as follows:

“From the state of **FACTS**, that it appears to them, that the right before the Revolution, and title to the said lands, called the King’s Farm and Garden were **OF RIGHT VESTED IN THE KING OF GREAT BRITAIN**, and **NOW BELONG TO AND ARE OF RIGHT VESTED IN THE STATE.**”

The above quoted report was subsequent to the Colonial Act in Assembly of April 17th, 1784, and paragraph five of which reads as follows:

“Provided nevertheless, and be it further enacted by the authority aforesaid, that nothing in this Act contained, shall be construed, deemed or taken, to prejudice or injure the right or title of any person or **PERSONS WHATSOEVER**, to any of the lands or tenements occupied or claimed by the Corporation aforesaid.” (Trinity Church.)

The Colonial Act of October 23rd, 1779, has not been found as repealed thereafter, and considering that it cannot be shown that the Anneke Jans Bogardus farm of 62 acres, was ever rightfully and legally a part of the Crown lands, and in the light

of records submitted, it can rightfully be asked, "when and how did the Trinity Church Corporation, legally and rightfully become possessed of the Anneke Jans Bogardus farm, and a legal and colorable chain of title obtained thereto?"

It is submitted for proper reasoning, in the light of facts shown, past and present, that adverse possession under the statute of limitations, cannot run against the heirs of Anneke Jans Bogardus, and it should be in order to quiet the title, considering that while sole possession of the 62 acre Anneke Jans Bogardus farm was obtained through ejectment of the heirs, and the burning of their fences, and crops destroyed, after the Revolutionary War, entry and title at subsequent trials was claimed solely through the reputed Queen Anne grant of 1705, (and not through the ejectment above cited) and which reputed grant was, and is, non-existent since June 26th, 1708, consequently, the very elaborate opinion of the Vice-Chancellor, against the heirs, in the trial of Bogardus versus the Trinity Church Corporation, and which verdict and opinion was rendered June 23rd, 1847, is not only considered in error, as to the statute of limitations being construed as running against the heirs, but also in violation of parts of the Constitution of the State of New York, as well as in violation of previous Acts of the Legislature, it is contended.

Upon this basis, the case is publicly submitted regarding the title, and for the disposal of the claim to title through adverse possession, made by the Trinity Church Corporation, against the heirs of

Anneke Jans Bogardus, regarding her 62 acre farm, confirmed to her children and heirs by Governor Nicholl in 1667, and known then as the "Dominie's Bowery" or "Preacher's Farm," and it should not be forgotten that the reputed sale of the farm to Colonel Francis Lovelace, by a part of the heirs in 1670, was repudiated, and entry thereunder disclaimed, by the Trinity Church Corporation, at a subsequent trial.

Wherein, and whereby, can adverse holding be justified, is rightfully asked in conclusion of this thought?

OPINION OF MR. CHARLES TRACY, COUNSELOR,
NEW YORK CITY

New York City, Nov. 18th, 1854.

Dear Sir:

Yours of the 17th, instant is received. Not having drawn up a written opinion, I can only say that my investigations of the law, confirms the views expressed, when I last spoke with you.

Trinity Church was tenant under a lease from the Crown, and the people of the state have succeeded to all the rights of the lessors.

The Church having been a tenant at first, cannot claim as adverse possessor, by reason of any continuance of the original possession, under pretext of any kind.

A tenant can found an adverse possession, as against the landlord, only by surrendering the premises, and terminating the tenancy, and then making a fresh entry, in opposition to the landlord's title, and adverse possession commences at such fresh entry.

I do not understand that Trinity Church *alleges any such surrender, and hostile fresh entry*, or can *prove their occurrence*, and I do not see how a presumption of such facts, could arise in the face of the usual pretensions of that ancient corporation.

If it *were a case admitting of presumption*, in lieu of *evidence in fact*, the statute limiting actions

by the people to a certain time since the receipt of rents, is a repetition of the earlier acts by which the government restrained itself from suing for lands, when it had not been "answered" in a certain time.

In 4 Comstock, in the Court of Appeals, we find that, "the permissive occupation, or tenancy, without any rent paid, is adjudged to be the equivalent to actual reception of rents, for the purpose of this statute."

This accords with the principle which must be applied, wherever the original lease was for a short time, and on nominal rent, as of fencing, clearing, or paying a pepper corn a year when actually demanded, the latter of which is still in use, and necessary in some cases.

The relinquishment of the rent year by year, being equivalent to demanding its payment, or actually receiving the payment of the rent, is an "answering" of the land to the landlord.

If presumption of payment of rent at all times down to the last twenty years, will establish the "answering" to that time, and clear the state from the longer limitation on its action, the result is that the Church is a tenant wrongfully holding over. The state is the proper landlord, and the statute of limitations is no bar to a recovery of the possession.

Yours truly,

(signed) Charles Tracy.

Counselor At Law.

To

Mr. Rutger B. Miller.

CHAPTER II

ANNEKE JANS BOGARDUS AND HER NEW AMSTERDAM ESTATE, PAST AND PRESENT A CONTINUATION OF THE LEGAL SUMMARY THEREOF

Later reports received from special investigators in the East, since the work on Appendix I was commenced, are to the effect, that the contentions of the heirs of Anneke Jans Bogardus, regarding the holding of their estate by the Trinity Church Corporation, is considerably talked about now in that part of the country, and much verbal discouragement is met with, in the progress of the work, on behalf of the descendants of Anneke Jans Bogardus, and evidently because, it is intimated, that the people at large have not as yet been made familiar with the heirs' side of the case, while they have, on the contrary, been filled up with publications and newspaper items favorable to the present holders of the estate, but as regards that phase of the matter, the several unfavorable legal decisions of the past against the heirs does not prove that justice has been done to them, it is not only contended, but will be so shown herein.

A map is to be found in the Manual of the Common Council of New York, by John Hardy, Clerk

of the New York Common Council of 1870, and which said Manual is on file in the State Legislative Library, and this map sets forth the location of "Old Jans Land" (John Celes' Farm) and the Bogardus farm adjoining thereto.

It can be noted as a matter of history, that the "Dominie's Bowery" which adjoined "Old Jans Land" (John Celes' Farm) was leased by Rev. Everardus Bogardus May 17th, 1639, to Richard Brudenell, and this lease evidently expired prior to August 17th, 1642, because on August 14th, 1642, Rev. Bogardus leased the farm to Roger or Rufus Barton, from September 1st, 1642, to September 1st, 1647. The record of the lease of 1642 has been located, but no record, or evidence of a lease made in 1639 to Brudenell has been found, but evidence was found of a recorded record, where Brudenell brought suit against John Celes, for trespassing upon the estate of Brudenell, and which action was brought in 1639.

It is evident from 4 Sandford's Chancery Reports, pages 633 to 762 that the defendants, (Trinity Church Corporation) not only attempted to claim by their plea, the "Duke's Farm," but also the "Dominie's Farm" and also what appears to be John Celes' land, (Old Jans Land) and which latter land became vested by will in his son-in-law and the son-in-law later transferred the land to August Heermans, June 11th, 1651, and it appears that August Heermans conveyed said land to Rut Jacobsen of Fort Orange, on May 11th, 1655, and this seems to raise the question as to how Old Jans

Land become a part of the "Duke's Farm," so that the Church by their plea, could receive a grant of it, as being a part of the reputed Queen Anne grant of 1705, or a part of the "Duke's Farm," and which latter mentioned farm was primarily the Dutch West India Company's land, and according to the map previously mentioned, adjoined the "Dominie's Bowery" or the Bogardus farm of 62 acres.

It can be noted that Charlton street is some distance south of Christopher street, and Canal street was south of Charlton street, (Old Jans' land was between Charlton and Canal streets with the Hudson River on the west) and Warren and Chambers streets were some distance south of Canal street, (the Bogardus farm of 62 acres was between Canal and Warren streets with the Hudson River on the west) and the line between Warren and Chambers streets, seems to be the dividing line between the Company's farm, (later the Burgo-master's Bowery, and still later the Duke's Farm), and the "Dominie's Bowery" or the Bogardus farm of 62 acres.

A patent, or confirmation, was issued to Thomas Neyseen, April 3rd, 1647, by Governor William Kieft, confirming John Celes' land unto him, the son-in-law mentioned in his will, (John Celes dated April 7th, 1645) and under which will he inherited the land. (See Hoffman's Estate and Rights of the City of New York, Vol. 2 and page 201.)

It was evidently Judge Hoffman who decided the question of title to the estate of John Celes. This proves interesting evidence, as the Church

people have tried to found the possession of title to this land under a grant made in 1705, or rather drafted at that time, but according to prior reports from investigators, the patent so called, never became a legal document of conveyance.

It appears that the Robert Edwards estate was north of Old Jans' land, or between Charlton and Christopher streets, with the Hudson River on the west, and a copy is in existence of a 99-year lease made by Robert Edwards to John and George Cruger, and dated June 1st, 1778, and the land extended along the Hudson River northerly to Christopher street, from Charlton street, and the title to this land is now in an unsettled condition, the lease having expired May 31st, 1876.

As further regards John Celes' land (Old Jans' Land) it can be noted from the second revised edition of Murray's Estate and Rights of the Corporation of New York, and in the notes and diagrams, page 187 of the same, there is set forth a deed from Dirck Dey to Trinity Church, bearing date of May 23rd, 1758, and recorded in Liber 54, page 523, New York County Register's Office, which mentions John Celes' land, as adjoining said land, also on October 19th, 1667, a confirmation by Governor Nicoll to Christopher S. and Maria Dangola, (book 2 page 131) also (see Jan Celes land page 188).

By reference to the case of Bogardus versus Trinity Church, (see Sandford's Chancery Reports, book 4 page 646) it can be seen that Governor Andros leased to Dirck Seekers, the "Duke's

Bowery" or farm for 20 years from 1677, and this lease would expire in 1697, the date of the charter from Governor Fletcher to Trinity Church.

An ejectment suit was filed against the Church in 1760, in which this lease was given as evidence, and on its behalf, Cornelius Van Denburg was described as being in possession.

Korning, (evidently a historian) states that Seekers lived on the premises, also "it may be noted here, that the land leased by Governor Andros to Dirck Seekers in 1677, was the land described as the 'Burgomaster's Bowery' and also known as the Dutch West India Company's Farm, which abutted the Dominie's or Bogardus farm of 62 acres."

The defendants claimed that this was the land that they acquired title to under the Queen Anne grant of 1705, and they contended that the "Duke's Farm" extended up to Christopher street, thus taking in the Bogardus farm, old John Celes' land, and the Robert Edwards land from Charlton to Christopher street.

In reality, it appears that the "Duke's Farm," extended only as far north as a line drawn between Warren and Chambers streets, with Broadway on the east, and the Hudson River on the west, and on the south by a line drawn between Liberty and Courtlandt streets.

The swamp on the east side, (as mentioned in the Queen Anne grant drafting), evidently extended southerly from Canal street to the present City Hall, or near it, and the commons, (as mentioned in the draft of 1705) extended south from

the swamp to Broadway and Fulton streets, and up until 1705, extended from the Bowling Green up to Fulton street, and it appears that Van Denburg's house stood on the present location of the Woolworth building, being a part of the "Duke's Farm" proper.

It has been claimed that the repealing act of 1702 (when Governor Cornbury attempted to repeal the annulling act of the King in 1699) was in force in 1705; however, it appears that King William the Third had already ordered a law passed vacating leases made by Governor Fletcher, and preventing any one from leasing or granting the "King's Farm" (formerly Duke's Farm) or Garden, for a longer time than their term in office, and an Act was passed in 1699 to that effect, and this Act was confirmed by Queen Anne in 1708, and the attempted act of Governor Cornbury of 1702, was unconfirmed by the Queen, and never became a law, and was set aside as being void.

It appears that the swamp aforementioned, was granted by letters patent, dated August 12th, 1731, by Governor Crosby to Anthony Rutgers, and said grant is recorded in the office of the Secretary of State at Albany, N. Y.

Rutgers drained the swamp, and it became Rutgers' farm. Rutgers' daughter married Anthony Lispenard, and Rutgers' farm later became "Lispenard Meadows." Anthony Lispenard was a Trinity Church vestryman from 1784 to 1787, and in 1789, a lease for 83 years, and known as the Lispenard lease, was granted by the Trinity

Church Corporation, and containing at that time 81 lots of the size 25 by 100 feet, and this lease expired the 25th of March, 1862.

Another lease was given in 1783 from Trinity Church to Abraham Mortier, (Liber 21 page 224-227) for land that appears to have been vested in Robert Edwards' lease of June 1st, 1778, also another lease was given by Trinity May 1, 1797, to Aaron Burr (Attorney for the Bogardus heirs, but later became the Attorney for Trinity Church Corporation) (see Anneke Jans Bogardus Record Book, c929. 2-B 6735, page 23, on file at the State Library, Albany, N. Y.). Burr in this book, or rather the books, sets forth clearly, Attorney Burr's opinion as to the heirs claim to the "Dominie's Bowery" and adverse to the claim of Trinity Church. Burr appeared as Attorney for the Church about 1784 or 1785, in company with his partner Morgan Lewis, and the latter testified for the Church in the Bogardus trial of 1840 to 1847. (See Sandford's Chancery Reports book 4, page 633 to 762.)

At page 11 of the aforementioned Anneke Jans Bogardus Record Book, an item taken from the New York Sun of Sunday, May 18th, 1891, is quoted as follows:

"The stolen property was then comparatively valueless, but the descendants battled manfully for its recovery. They were powerless however, for there never was a time when Trinity Church had not friends in court, chancellors, judges, lawyers, and legislators, who all hastened to the rescue

when their stolen possessions were in danger. Her vestrymen and comptrollers poured out money like water, to enable her to retain the property, valued at sixty millions of dollars many years ago."

In 22 New York Reports, the Court held that the Act of 1702 was in force in 1705, but it did not appear that any act passed by the Legislature could not become a law, unless it was confirmed by the King or Queen, and thus the Governor could not confirm it, so the pretended act of Governor Cornbury of 1702, in which he attempted to annul the act of the King of 1699, never became a law, unless it was confirmed by the Crown, which was not done; on the contrary, Queen Anne annulled it in June, 1708.

King William the Third, by his royal order, and which was law in itself, set aside among other things, the lease of the King's Farm, in 1697, from Governor Fletcher, and in accordance with this order, the Act of 1699 was passed, protecting the Crown's rights to the King's Farm and King's Garden, against all Governors, Lieutenant Governors or Commanders in Chief, from granting or leasing the said farm or garden for a longer term than their period in office, and this act of the King appears to have already become a law before 1702, in accordance with the Royal order of King William the Third for the protection of the Crown lands, and to allow a subordinate, (especially a a profligate cousin who masqueraded in women's clothes at times), the power of repealing the express instructions of the superior, is sheer non-

sense to even advocate such, and upon no other theory can the reputed patent of 1705 be sustained as being valid in its inception, except that the representative of the Crown in America had the authority to set aside the decrees of his superior, the king, and as no such authority ever existed, the Queen Anne grant was forbidden before its execution, and it was annulled after its execution by Queen Anne in 1708, consequently, the Queen Anne grant can be conceived of as nothing more or less than an attempted legal abortion, the still born offspring of Cornbury, upon the body corporate of Trinity Church.

Inasmuch as Trinity Church has never dared to rely upon the reputed patent of 1705, without pressing too hard upon the admittedly weak points of its fortifications, let us therefore walk boldly out upon the statute of limitations, and the payment of quit rents, and behind which the Church ensconces itself.

By the Act of the 26th of February, 1788, the right of the people of the state of New York to sue for the recovery of lands, is limited to 40 years after the right of act occurred.

Under this statute it has been held, (see *People versus Arnold*, Comstock's Reports book 4) that the tenant must show 40 (forty) years adverse possession, and Trinity Church entering under the lease of 1702, and sublet to George Ryerse in 1704 for five years, then her possession never became adverse, and never would so become, because, to found an adverse possession upon a written instrument, the

tenant must show an actual entry under that instrument, hostile in its inception, and by no possibility could any such entry have taken place under the reputed patent of 1705, for by its terms, and upon its very face, the land appears to have been in the possession of George Ryerse in 1705, and it has been shown above that Ryerse entered under a lease from Trinity Church as sub-tenant, the Church having entered under the lease of 1702, and given by Governor Cornbury during his term in office.

If then, Ryerse entered in 1704, and continued in possession until 1709, (the term of his lease), how could the Church have entered under a patent dated in 1705, and annulled in 1708? How could Governor Cornbury grant in 1705, a title that was never vested in him, except that he held the use of the farm as a perquisite, during his term in office, the title to the farm in reality remaining in the Crown, in accordance with the Act of 1699, and the title so remained until the close of the Revolutionary War, and thereafter, the Legislature of the State of New York decreed that the state succeeded to the lands formerly known as the "Duke's Farm" and no part of which can it be legally shown, were the Bogardus lands, therefore, how can the title to such be vested in the Trinity Church Corporation, either now or ever hereafter?

Some statements embodied in "Appendix H" and the book "Anneke Jans Bogardus And Her New Amsterdam Estate Past And Present" have

been repeated in "Appendix I" in order to keep some points freshly in the mind of the reader.

Transcription In Part Of The Memorial Of Clinton Roosevelt, Of Pelham, Westchester County, And Said State, On Behalf Of The City Of New York, And State Of New York, And The Heirs Of Bogardus As To Certain Claims.

To

The Honorable Legislature Of The State Of New York.

* * * *

(Transcribed In Part From A Printed Pamphlet Headed As Above And Bearing The Printed Signature Of Clinton Roosevelt).

Respectfully Represents:—

That, at the first preceding session of the legislature, he had the honor of presenting the Memorial of various citizens of said state, which was referred to the Judiciary Committee of the Assembly, before whom the undersigned appeared, and briefly stated the points in said petition, leaving the proofs and references to the constitution and laws, bearing on the question therein presented.

That, so far as your Memorialist is concerned, no action was had thereon. No more important questions have ever been presented to the legislature than were involved in the petition so presented. The very just principles of a Republican form of government being at stake. The fact being that in the year 1814, a law was passed by false pretences to erect a closed corporation on the ruins of the original charter of the Corporation of Trin-

ity Church, in the City of New York, in violation of the 36th section of the Constitution of the State in the year 1777, and also in violation of the Act of April 17th, 1784, entitled:— “An Act For Making Such Alterations In The Charter Of Trinity Church As To Render It More Conformable To The Constitution Of The State,” the principles of which are as follows:

Section VI—Be it therefore enacted by the authority aforesaid, “That the said Act for settling a ministry and raising a maintainance for them in the City of New York, counties of Richmond, Westchester and Queens Counties, (reciting the several enumerated acts by their titles) be, and are hereby declared to be fully abrogated, and made void, as inconsistent with, and repugnant to the Constitution of the State. And it is hereby further declared that nothing in this act contained shall in any wise be construed or understood to give any kind of pre-eminence or distinction to the Episcopal mode of religious worship in this State, but that an universal equity between every religious denomination shall forever prevail.”

Section VII—“And be it further enacted by the authorities aforesaid, that nothing in this Act contained, shall be deemed, esteemed, adjudged or construed to enlarge or confirm any right, power or authority but such as the said Corporation legally held and enjoyed on the 19th day of April, 1775, and such other powers, rights and authorities as are expressly given by this Act.”

And now as to its authority to hold and use, or

sell out the "Queen's Farm" and garden, or the "Dominie's Bowery" or "Dominie's Hook," in all 132 acres Dutch measure, the fifth section of such Act reads as follows:

"Be it further enacted by the authority aforesaid, that nothing in this Act contained shall be construed, deemed or taken to prejudice or injure the right or title of any person or persons, to any of the lands or tenements, occupied or claimed by the Corporation aforesaid."

* * * * * the fine Rector of Trinity Church, Will Vesey, a convert from the sect of dissenters, with his infamous sidesmen, had usurped authority in the parish of Trinity Church, and the history of the times as exhibited in the Documentary History of New York, from the archives in London, shows that they conspired with Colonel Fletcher, then Governor of the province of New York, to rob not only the sovereign Queen Anne of her farm and garden in the City of New York, but also other Crown lands, and in like manner subsequently seized the church lands and parsonage of the Dissenters at Jamaica, Long Island, which these land pirates held during a quarter of a century, and this same reverend Rector William Vesey, at the time confessed that unless assisted by a violent act, regardless of all law, the sidesmen and Rector of the parish of Trinity, in the City of New York, might lose their hold on the Dominie Bogardus Bowery and Hook which had been taken by force in like manner as the church parsonage and lands of the Dissenters at Jamaica, Long Island * * * *

that it is actually ridiculous, the very documents they now appeal to in substantiation of their claim to title, being so entirely on the side of us, their opponents, that as a matter of compromise, the claimants of this immense estate, would need no better document than the pretended grant of Queen Anne * * * but such as are from the East, (Rector Vesey and others) have usurped the rights and properties of the Dutch Dominie Bogardus, as well as the City and State of New York, and they ought to be compelled to exhibit their titles to the King's Farm and Garden, belonging by escheat to the State of New York and the common people * * * * nor is the weakness of title on the part of this closed, wicked, grasping church corporation confederation, the worst feature in the face of mother Trinity of Church street memory, seeing that when called to account by the legislature in the year 1857, by a select committee of the Senate, on various charges of wasting the estate, she dared to boast of her "political weight" and enter a caveat on the pretended rights of conscience, while in fact possessing no more conscience than a fish devouring its own young, as will appear * * * * by this insolent threat:

"When politicians think it their duty to call the Church to an account for the management of their own affairs, the Church may deem it necessary to see what kind of men are entrusted with such dangerous influence. On these grounds, as an American citizen, (Bishop Onderdonk) jealous of the liberties and rights of both the Church and State, I

must express profound regret that your select committee was ever appointed." * * * * your Honors have only to inquire to learn that the marble effigy of that silenced Bishop (Onderdonk) has been enshrined in the Holy of Holies, the vestry room of Mother Trinity of Church street memory, as if saying to both Church and State, in view of all of her shortcomings and excesses, "what do you mean to do about it? We have our representatives in your legislature, even under pay, and on the watch to silence all efforts to compel justice to be done." That when prosecuted and so called to an account in a court of law, if not in this case, a court of justice, with a judge upon the bench of the Superior Court, of the City of New York, a demurrer to the complaint of the heirs of Bogardus was interposed, to prevent a trial on the merits, and the technical objections to the trial were of the most trivial character, that the judge, since impeached, and also silenced after an absurd argument assuming grounds utterly untenable, had the effrontery to threaten utter ruin to any man who should ever again attempt to bring to justice this wicked, soulless corporation * * * * but it is by such men's merits that Trinity has prospered. The said corrupted judge saying, in regard to the granting of leave to amend, "this I cannot do, because I am satisfied that the plaintiff's notions as to his rights and remedies are wild, visionary and absurd, and I think I will be doing him an act of great kindness, in dismissing his complaint altogether. As to the question of costs and allowances, I think

my proper course will be to put defendants to their remedy, by motion for that purpose. I will say here, however, that I think as the amount claimed is large, the allowance should be in proportion, so that those who go to law with this corporation or any other person or corporation, will see at once that they have at least a probable cause of action, and if they have not and still persist in notoriety of this kind, they will be at least compelled to pay for such litigation * * * *."

This from a close and closed corporation that had not then and has not now, a single reasonable word in law or equity, and much less in christianity or conscience, to say in self defense. Its only safety being to silence all inquiry through strangulation.

The Act of May 12th, 1699, was passed by the Colonial Legislature, upon the requisition of the Crown and Council, and entitled:

"An Act For The Vacating, Breaking And Annuling Several Extravagant Grants Of Land Made By Benjamin Fletcher, Late Governor Of This Province Under His Majesty."

To show that it has never been possible for any pretended grant from Queen Anne or Lord Cornbury, or to make any grants to last longer than his own term in that government, and that ALL of the pretended grants to Trinity Church are void IPSO FACTO, the third section of the said Act are here cited in full:

Section III—"And to the intent that it may not be in the power of any of His Majesty's governors

or commanders-in-chief, for the time being thereafter, to make any such extravagant grants of land as aforesaid, it shall not be in the power of any of His Majesty's governors, or commanders in chief under His Majesty, his heirs or successors, to grant or devise any of the lands hereinafter mentioned, that is to say, Nutten's Island, the King's Farm, the King's Garden, the swamp, the fresh water, as they are now limited and bounded, being the demesne of His Majesty's fort at New York, and for the benefit and accommodation of His Majesty's governors and commanders in chief for the time being, and if any such grants or demises for the future, shall be made for longer than the time mentioned, then all and every such grants shall IP SO FACTO become null and void, and to no use to all intents and purposes whatsoever, any law, custom or usage to the contrary notwithstanding, saving to the City of New York the right to have the fresh water and lands, to low water mark behind the King's Garden."

This conclusive law having been in force on the 19th day of April, 1775, and the Constitution of the State of New York, establishing the same law by its 36th section of the Constitution of 1777, it is manifest that no Act of the Legislature of this State, of the date of 1814, or other date, could by any possibility disfranchise all of the inhabitants of the City of New York * * * * or so enlarge the powers of the charter of Trinity Church, as to legally and constitutionally empower it to hold fifty million dollars worth of other people's prop-

erty, and collect a million of dollars annually, while the Charter of the Church of 1697 limited its holding of property * * * *

* * * *

The closed corporation of Trinity Church in the City of New York, in effect, strangles the speech of every needy minister who comes to her as a suppliant begging for crumbs which may sometimes fall from her overloaded tables, filled with the spoils of the State, the City of New York, and the heirs of Dominie Bogardus * * * *.

As to the income of the Corporation of Trinity, the elder Bishop Potter stated, "if that be excessive it is not for the plaintiff to complain. His learned counsel might have taken some action on the subject, when he was Attorney General, but it is too late for him to do so now."

But it is respectfully insisted that it is never too late for any Attorney General in power to do right, when he is assured a closed and soulless corporation is corrupting courts and legislatures, to sustain men abusing their trust, unless the inhabitants of the City of New York, * * * * are disfranchised. Nor would such high handed acts of usurpation been quite so intolerable, were it not that insult is thus added to injury, as will appear throughout the testimony, taken by the select committee of the Senate of 1871 on the affairs of Trinity Church, of which the Hon. Mark Spencer was chairman, to which for greater certainty, reference is made * * * *.

Your Memorialist has expressed his convictions

of the justice of the claims of the State to the King's Farm and Garden, by conquest, and the City of New York to its commons back of the King's Farm and Garden by its charter, and the claims of the heirs of Bogardus to the grants of the sovereign of Holland, as confirmed by Governor Nichols, and will be charged against the clients of your Memorialist, all their rights being expressly saved to them, by the Act passed April 17th, 1784, in its fifth article, which as being of immense importance, is repeated thus:

Article V—"Provided nevertheless, and be it enacted by the authority aforesaid, that nothing in this Act contained shall be deemed, or taken to prejudice or injure the right or title of any person or persons whatsoever, to any of the lands or tenements occupied or claimed by the corporation aforesaid" * * * *.

And your Memorialist respectfully refers to the two Acts of the Legislature of the State of New York, dated respectively, the first one on the 3rd day of October, 1779, entitled:

"An Act to provide for the temporary government of the southern part of the State, whenever the enemy shall abandon or be dispossessed of the same" and the second one dated April 17th, 1784, entitled:

"An Act for making such alterations in the Charter of the Corporation of Trinity Church, as to render it more conformable to the constitution of the State" which recites that upon the petition of sundry persons, * * * * did in effect de-

clare "the said places of church wardens and vestrymen to be vacant, and by their ordinance dated the 12th day of January, 1784, did vest the real estate and personal property in nine trustees therein named, to be retained and kept by them or any five of them, until such time as further legal provisions should be made in the premises."

But said trustees, although honorable and patriotic men, appear not to have understood all of the duties of their office as trustees, and instead of preserving the rights and interests of the State, the City of New York, and the heirs of the Bogardus estate, as noticed above herein, as contained in the fifth section of the said Act, relied upon Counsellor Cosine to evade their duties in the management of the various great interests entrusted to their care, nor have said trustees ever yet so represented, as to be beneficial, either to the State as proprietor of the King's Farm and Garden, as successor of the Sovereign of Great Britain, or to the City of New York, or to the heirs of Bogardus, whose inalienable rights from the Holland government were confirmed by Governor Nichols on the 27th day of March, 1667, so to be utterly beyond dispute.

But inasmuch as the interferences of the legislature with the due course of law has worked only gross injustice to the State, the City of New York, and the Bogardus heirs, your Memorialist, on behalf of all the parties interested in this vast estate, humbly prays that every unconstitutional act of former Legislatures may be abrogated and an-

nulled, and that trustees may be appointed to divide said large estate according to the first principles of the government under whose authority every party interested may be duly represented and secured in their rights to the possession of such properties, as the constitution and the law require, for the preservation of the rights of the State and City of New York, and the heirs of Bogardus, are entitled to under the treaty of peace with Great Britain, and the 36th section of the Constitution of the State of New York of 1777, and still in force, and to this end, the following is respectfully presented, as the out-lines of the needed ordinance:

Section I—"All laws in relation to the corporation of Trinity Church, in the City of New York, as known in the year 1775, on the 14th day of October of that year, by the name of, 'The Rector and Inhabitants of the City of New York, of the Protestant Church of England, as by law established,' excepting the law enacted by the Legislature of the State of New York on the 17th day of April, 1784, entitled, 'An Act for making such alterations in the charter of the corporation of Trinity Church, as to render it more conformable to the Constitution of the State, are hereby abolished, excepting also the Act passed the 10th of March, 1783, by which the name of the said corporation was changed to be termed 'The Rector and Inhabitants of the City of New York, in communion of the Protestant Episcopal Church of the State of New York' and which name is by this Act restored.'"

Section II—That nine trustees shall be appointed by the Legislature, by two-thirds of the votes of the members of the Senate and Assembly in joint ballot, to distribute all of the property of said corporation of Trinity Church, to the parties to whom its several parts respectfully belong, as may appear from the records of valid grants, or on due proofs otherwise, reserving the equivalent of five thousand pounds currency in real estate, in addition to the church edifice, near Wall street in said city, to the original corporation of Trinity Church, as established first in 1697, and again on the 27th of June, 1704.

(Signed) Clinton Roosevelt.

The foregoing memorial was followed in the pamphlet by the next quoted,

POSTSCRIPT

To the parties in the occupation of the trust estate claimed by the Rector, Church Wardens and Vestrymen of Trinity Church in the City of New York.

TENANTS—Take Notice.

It ought to be known to you, that although it is well settled in law, that no tenant can successfully dispute his landlord's title, yet it is equally well settled in equity, that fraud vitiates any contract, and so renders it a *NUDEN PACTUM*, the only defence, therefor, against a lease that was made by false pretenses, and although it is possible that the "POLITICAL WEIGHT" of Trinity Church may have secured the election or appointment of other judges of the same character as that of the late John H. McCunn, to even threaten with utter ruin any heir of Bogardus who might dare to commence an action to secure possession of their patrimony, yet it is to be hoped and it may be calculated on as certain, that if the pretended Corporation of Trinity Church should be prosecuted in the United States Courts, the original charter of both the City of New York and of Trinity Church would be sustained, and thus the trust estates may be re-

stored to its several owners, saving only for the Corporation of Trinity Church, 5,000 pounds currency of value of real estate, and 500 pounds currency, or its value in our present currency, as income, according to the doctrine of CYPRES, that is to say, as near to the intent or spirit of the original charters as possible, under our present changed conditions since the war of independence.

The 36th section of the Constitution of the State of New York of 1777, still in force, provides, that all corporations in existence on the 14th day of October, 1775, in the State of New York, shall continue to exist according to the terms of their several charters, and by reference to the charters of the corporation of the City of New York, as well as of Trinity Church, it will appear that these two original charters provide for PERPETUAL succession, so that any Acts of the Legislature, except such as manifestly tend to carry into effect the original purposes of these charters, are IPSO FACTO, null and void, and that the United States Courts will enforce the provisions of these original charters, all may be assured from the following reports as published in the New York Herald of the date of December 30th, 1885, which for greater certainty is herewith presented, that tenants hiring, or intending to hire, property of the trustees in possession of the estates of the State or City of New York, or Bogardus heirs, may secure themselves against the proper owners of said properties, seeing that in case of ejectment they would be subjected to the payment of six years back rent,

which by a proper understanding with the real owners of the property, may be in a great measure avoided, for unless the trustees of Trinity Church should corrupt the Supreme Court of the United States to decide in opposition to these precedents, the State and City of New York, and the heirs of Bogardus, will most certainly be enabled to recover the POSSESSION OF THEIR LONG LOST PROPERTY.

Clinton Roosevelt.

Next following hereto is the publication in the New York Herald alluded to by Mr. Roosevelt in the foregoing quoted notice.

From the New York Herald, December 30th, 1885:

“LEGISLATIVE GRANTS OF MONOPOLIES”

The United States Supreme Court has recently rendered three opinions, which may well be pondered over by every legislature, before voting in favor of a monopoly for a long period.

“In 1879, the people of Louisiana aimed a blow at monopolies. They embodied in their fundamental law the declaration that, ‘the monopoly feature in the charter of any corporation now existing in this state, save such as may be contained in the charter of railroad companies, are hereby abolished.’

“Prior to the adoption of this constitutional provision, the Legislature of the State had granted to the New Orleans Gas Light Company, the exclusive right of supplying that city with gas light for 50 years from 1875, and to the New Orleans

Water Works Company, the sole privilege of furnishing the city with water from the Mississippi River for 50 years, beginning in 1877.

“Each of these monopolies is now upheld by the United States Supreme Court, in spite of the anti-monopoly provision in the Constitution of 1879. The Court decides that in each instance, the legislative grant was a contract, which could not be broken even by the representatives of the people, in constitutional convention, without violating the clause of the federal constitution which forbids a State to impair the obligation of contracts. In one of the cases the Court held that not even the lessees of the St. Charles Hotel, though clothed with municipal authority, had the right to supply their own house with water drawn from the Mississippi River, through pipes laid by themselves. Every water consumer, and every gas consumer, was bound to take from the monopoly company or go without light and water.

“The same principle was affirmed in a Kentucky case. In 1869, the Legislature granted to the Louisville Gas Light Company, the exclusive privilege of supplying that city with gas light for twenty years. In 1872, the Citizen’s Gas Light Company of Louisville was chartered by the Legislature, and the validity of the charter was affirmed by the Kentucky Court of Appeals. This decision is reversed, and the monopoly of the first company is upheld by the United States Supreme Court.”

* * * *

NOTE I

The principle that Mr. Roosevelt intended to convey through reference to the above quotation, was that subsequent State Legislatures did not have the authority to set aside or abridge, any of the provisions of an original charter, or trust agreement as originally embodied in the original charter, and this is why Mr. Roosevelt so plainly asserted in his memorial to the Legislature of the State of New York, as to the unconstitutionality of the Act of the State Legislature of the State of New York, passed January 25th, 1814, because of the disfranchisement of incorporators and communicants of the Trinity Church and Corporation, through the changing of their original charter and corporate name, and thus making a close and a closed corporation of Trinity. The name being changed from "The Rector and Inhabitants of the City of New York, in Communion of the Protestant Episcopal Church in the State of New York" to "The Rector, Church-Wardens and Vestrymen of Trinity Church in the City of New York."

NOTE II

Notwithstanding that the Act of January 25th, 1814, disfranchised the corporators and communicants from voting at the annual election of Church and Corporation officers, and for some of whom Mr. Roosevelt was an attorney for them as plaintiffs, there is a saving clause in this Act, to ANY and ALL PERSONS, interested in the TRUST

estate controlled by the Trinity Church Corporation, inasmuch as the proviso in paragraph VI of the Act reads as follows:

“Provided ALWAYS, that nothing in this Act contained shall be construed to affect, or defeat the right of any person or persons, or of any body corporate, to the estate, real or personal, now held, occupied, or enjoyed by the corporation of Trinity Church.”

It can be remembered that Mr. Roosevelt, in his Memorial to the State Legislature, and quoted in part hereinbefore, quite bitterly assails the nine trustees appointed by the State to administer the trust estates held by the Trinity Church Corporation, for a breach of trust in their official capacity through a non-performance of their duties, and Mr. Roosevelt in his Memorial, it can also be remembered, intimates, and in some places openly charges, that favorable conditions for the Trinity Church Corporation were brought about through the corrupting influence of the power of money, IN ALL TIMES PAST, thus enabling this Corporation to perpetually hold the trust estates, committed to them as such in times past, through leases.

It can also be noted from Mr. Roosevelt's “Tenants—Take Notice” and previously quoted herein, that he is of the opinion that the only remedy or solution to the recovery of these trust estates, is to get the case out of, and away from, the State or County of New York, and before the highest tribunal of the land, namely, the Supreme

Court of the United States, before which august tribunal, proper adjudication may be expected.

* * * *

REFERENDUM

Trinity Church Corporation claims entry under the reputed Queen Anne grant of 1705, to the Queen's Farm and Garden.

Queen Anne in 1708, voided this reputed grant because of its perpetuity, by confirming the restraining Act of 1699.

Title to the Bogardus lands is claimed by the Trinity Church Corporation through adverse possession under the statute of limitation.

When and how did the Bogardus lands ever become a part of the Duke's Farm, later the King's Farm, and still later the "Queen's Farm," and when was it made possible in law for adverse possession, and the statute of limitations to run against the real owner, under a voided grant, or an unconfirmed lease, under which no entry was made?

Certainly not merely because of the decision of the Vice-Chancellor of June 23rd, 1847, in the Bogardus versus Trinity Church Corporation case, and which decision is untenable, because it has no foundation of fact, in law, equity or legislation, either Colonial or State.

(Other appendices will follow as investigations warrant.)

